IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14700 of 2004

Between:

B.V.S. Subrahmanyam, S/o. Venkata Satya Narayana Murthy,
Fair Price Shop Dealer, Shop NO. 4 Kakaraparru, Peravali

Mandal, West Godavari District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Peravali, West Godavari District.
2 Revenue Divisional Officer, Kovvur, West Godavari District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or a writ one in the nature of "WRIT OF CERTIORARI" calling for the records relating to the Proceedings of the Mandal Revenue Officer Peravali Mandal, West Godavari District vide Roc.No. 307/2 (CS) dated 5-6-2004 issued by the 1st respondent herein and quash the same as illegal arbitrary and unconstitutional, being violative of Articles 14, 21 of the Constitution of India, and consequently direct the respondents to appoint the petitioner as F.P. Shop dealer Kakaraparru Village, Peravalli Mandal, West Godavari District and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.SIVALENKA RAMACHANDRA PRASAD

Counsel for the Respondent 1 & 2: The Government Pleader for Civil Supplies.

The Court at the stage of admission made the following Order:

Heard the learned Counsel for the petitioner and the learned Government pleader appearing for the respondents.

The petitioner was appointed as the Fair Price Shop dealer of Kakaraparru village, Peravali Mandal in the year 1989 by the then Chairman, Zilla Abhivruddhi Sameeksha Mandali, who was the appointing authority at the relevant point of time. Subsequently, by virtue of the orders of this Court, all such appointments made under G.O.Ms.No.300, dated 5-5-1989 were treated temporary and fresh notifications were issued by the Revenue Divisional Officers under G.O.Ms.No.19, dated 10-01-1990. Accordingly, the vacancy of Fair Price Shop of Kakaraparru village has also been notified and one G. Veeranna was appointed as the dealer on permanent basis. Challenging the said appointment, the petitioner, who was the unsuccessful candidate preferred appeal before the Joint Collector, West Godavari District, Eluru, but the same was dismissed. The petitioner preferred a revision petition before the District Collector. Though the revision petition was dismissed, the District Collector did not approve even the selection of G.Veeranna. Thus, the vacancy could not be filled up and the writ petitioner continued as a temporary dealer. It appears that the petitioner filed W.P.No.13760 of 1991, assailing the selection process, which was dismissed on 03-12-1996.

The fact remains that the petitioner is being continued as a temporary dealer of Kakaraparru Fair Price Shop throughout. Now, the grievance of the petitioner is that the first respondent-Mandal Revenue Officer, Peravali, West Godavari District under

the impugned proceedings dated 05-06-2004, while terminating the authorization of the petitioner with immediate effect, placed one Smt.P.Kameswari, who is the Fair Price Shop No.2 of Ajjaram village, as in-charge dealer of the shop in question. The said order also shows that it has been issued in pursuance of the orders of this Court in W.P.No.13760 of 1991. Challenging the same, this writ petition is filed.

Learned Counsel for the petitioner vehemently contended that the first respondent is not competent to pass the order terminating the authorization of the petitioner and at any rate the order of termination without issuing any notice to the petitioner and without assigning any reasons cannot be sustained. He also contends that the order is not bona fide and there is no justifiable reason to terminate the authorization of the petitioner at this length of time.

I find force in the contentions of the learned Counsel for the petitioner. It is always open to the respondents to notify the vacancy in question and to make the appointment on permanent basis. However, there is no reason to terminate the authorization of the petitioner. That is not the purport of the order of this Court in W.P.No.13760 of 1991. Even as per the judgment of this Court in W.P.No.8671/1989 and batch, all the appointments made by the then Chairman, Zilla Abhivruddi Sameeksha Mandali shall be treated as temporary till the vacancy is notified afresh. Admittedly, no permanent appointment has been made so far by the Revenue Divisional Officer. Hence, the petitioner is entitled to continue till such appointment is made.

Accordingly, the impugned order dated 05-06-2004 is set aside and the respondents are directed to allow the petitioner to distribute the commodities till permanent appointment is made to the shop in question. It is made clear that this shall not preclude the respondents to take appropriate steps for making the permanent appointment in respect of the Fair Price Shop in question.

The writ petition is accordingly disposed of. No costs.

01-09-2004

Note: Issue C.C. by two days.

(B/o)

kdl

To

1 The Mandal Revenue Officer, Peravali, West Godavari District.
2 Revenue Divisional Officer, Kovvur, West Godavari District.

3 Two C.Cs. to the Government Pleader for Civil Supplies, High Court

Buildings, A.P., Hyderabad (OUT).

4 Two C.D. Copies.